THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.24304 OF 2001

ORDER:

The writ petitioner was awarded a contract for construction of a compound wall and laying a drain for the purpose of a petrol bunk situated in Sy.Nos.147 and 148 of Midthur village, Peddavadagur mandal, Anantapur District.

It is stated that he was executing the work by purchasing the required metal from a local dealer. While so, the respondent herein i.e, the Assistant Director of Mines and Geology having inspected the premises in question seized the road roller and concrete mixer being utilized by the petitioner for the construction work alleging that the petitioner was utilizing the minor mineral without any valid quarry lease. The respondent also issued a notice dated 20.11.2001 directing the petitioner to stop the on going work forthwith and take necessary steps for payment of the requisite seignorage fee alleging that the minor minerals utilized by the petitioner for the construction work were not purchased from valid quarry lease holder, which is contrary to the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. It was also alleged that no royalty was paid for the minerals being used by the petitioner.

Aggrieved by the said action of the respondent, this writ petition has been filed contending *inter alia* that both the allegations that the petitioner did not possess a valid quarry lease and that he failed to pay the seigniorage charges to the Department are untenable since he has only purchased the metal from a local dealer and that he has already furnished the said details to the Department. It is also contended that since no notice was issued to him before resorting to the impugned seizure and issuing the impugned notice, on that ground also the impugned action is liable to be declared as arbitrary, illegal and violative of the fundamental principles of natural justice.

This Court while directing Rule nisi by order dated 20.12.2001 ordered release of the seized road roller subject to the condition of depositing a sum of Rs.6,000/- and furnishing an undertaking that all the documents relating to the material used by him for the construction in question would be produced before the respondent.

The learned counsel for the petitioner states that in compliance with the interim order, the petitioner has deposited the amount and the road roller was released and the petitioner has also completed the construction.

I have heard the learned counsel for both the parties and perused the counter-affidavit filed on behalf of the respondent, in which the impugned action was sought to be justified relying upon Rule 26 of the A.P. Minor Mineral Concession Rules, 1966 (for short “the Rules”).

It is true that Rule 26 of the Rules empowers the authority to impose enhanced seigniorage fee as penalty under the circumstances specified thereunder. However, since such levy of penalty results in civil consequences, the person against whom such levy is sought to be made is entitled to an opportunity to explain the allegations. Failure to give such an opportunity undoubtedly results in infringement of principles of natural justice.

In the case on hand, since admittedly no such opportunity was given to the petitioner, the impugned notice is hereby set aside and the writ petition is disposed of leaving it open to the respondent to pass appropriate orders afresh in accordance with law after giving an opportunity to the petitioner to submit his explanation against the proposed action. No costs.

11.7.2007.

Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.24304 OF 2001

11th July, 2007.

Between:

K. Raju. .. Petitioner.

And

Government of Andhra Pradesh,
Department of Mines and Geology,

represented by
Assistant Director of Mines & Geology,
Anantapur. .. Respondent.

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